United Nations A/C.3/64/SR.41

General Assembly
Sixty-fourth session

Official Records

Distr.: General
24 March 2010
English
Original: French

Third Committee

Summary record of the 41st meeting
Held at Headquarters, New York, on Thursday, 12 November 2009, at 10 a.m.

Chairperson: Mr. Penke (Latvia)

Contents

Agenda item 41: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*)

Agenda item 67: Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*)

(a) Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*)

Agenda item 68: Right of peoples to self-determination (*continued*)

Agenda item 69: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC-2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

09-60412 (E)

Please recycle

The meeting was called to order at 10.40 a.m.

Agenda item 41: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*) (A/C.3/64/L.52, L.58 and L.59)

Draft resolution A/C.3/64/L.52: Office of the United Nations High Commissioner for Refugees

1. **The Chairperson** said that the draft resolution had no programme budget implications.

2. **Mr. Khane** (Secretary of the Committee) recalled that Albania, Algeria, Angola, Armenia, Azerbaijan, Belarus, Belize, Benin, Burundi, Cape Verde, Chile, the Congo, Costa Rica, the Dominican Republic, Ecuador, Ethiopia, France, Guatemala, Haiti, Ireland, Kenya, Kyrgyzstan, Lesotho, Liberia, Malawi, Micronesia (Federated States of), Montenegro, Morocco, Panama, the Republic of Korea, Rwanda, Sierra Leone, Thailand, the former Yugoslav Republic of Macedonia, Togo, Turkey, the United Republic of Tanzania, the United States of America and Zambia had joined the sponsors of the draft resolution when it had been introduced.

3. **Mr. Metso** (Finland), announcing that Brazil, Colombia, Greece and Malta had also joined the sponsors, said that the draft resolution was essentially a way for the General Assembly to continue supporting the United Nations High Commissioner for Refugees and the Executive Committee of the Programme of the United Nations High Commissioner for Refugees. Each year, the draft resolution focused on key policy issues, while matters requiring particular attention by the General Assembly were included in line with changing conditions. Work on the draft resolution was characterized by a genuine commitment to refugees, as demonstrated by the large number of delegations that had already joined the sponsors. His delegation thanked all delegations for the constructive spirit they had shown during negotiations and was confident that the Committee would adopt the draft resolution by consensus.

4. **Mr. Khane** (Secretary of the Committee) announced that Burkina Faso, Cameroon, the Comoros, the Czech Republic, the Democratic Republic of the Congo, Guinea, Ireland, Israel, Mali, Mauritania, Mexico, Mozambique, Namibia, Niger, Nigeria, the Russian Federation, Seychelles, Sri Lanka, the Sudan, Swaziland, Timor-Leste, Uganda, Ukraine and Uruguay had joined the sponsors of the draft resolution.

5. *Draft resolution A/C.3/64/L.52 was adopted.*

Draft resolution A/C.3/64/L.58: Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees

6. **The Chairperson** said that the draft resolution had no programme budget implications.

7. **Mr. Khane** (Secretary of the Committee) recalled that Afghanistan, Albania, Belarus, Benin and Ecuador had joined the sponsors of the draft resolution when it had been introduced.

8. **Ms. Klopčič** (Slovenia) said that Turkey had joined the sponsors. The draft resolution took note of her country's request, communicated in a letter dated 10 March 2009 from the Permanent Representative of Slovenia to the United Nations addressed to the Secretary-General (E/2009/47), to become a member of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees. It also took note of Economic and Social Council decision 2009/252, which had been adopted by consensus. Slovenia, which attached great importance to the Programme of the United Nations High Commissioner for Refugees, stood ready to cooperate fully with all members of the Executive Committee in order to find constructive solutions to the challenges facing the Programme. Her delegation hoped that the General Assembly would give favourable consideration to its request and that the draft resolution would be adopted by consensus.

9. **Mr. Khane** (Secretary of the Committee) said that Bangladesh, Cameroon, Chile, Mali, Morocco, the Sudan and the former Yugoslav Republic of Macedonia had joined the sponsors of the draft resolution.

10. *Draft resolution A/C.3/64/L.58 was adopted.*

Draft resolution A/C.3/64/L.59: Assistance to refugees, returnees and displaced persons in Africa

11. **Ms. Sulimani** (Sierra Leone), introducing draft resolution A/C.3/64/L.59 on behalf of the Group of African States, said that Denmark, Estonia, Finland, Greece, Poland, Portugal, Slovakia, Spain and Sweden had joined the sponsors. She drew the Committee's attention to the adoption of the African Union

Convention for the Protection and Assistance of Internally Displaced Persons in Africa on 22 October 2009. Focusing on the fourth preambular paragraph of the Convention, she requested the international community to take specific measures to provide refugees, returnees and displaced persons with the protection and assistance that they required. Bearing in mind that a consensus had almost been reached on the draft resolution during informal consultations, she called on the participating delegations to join the list of sponsors. She hoped that the draft resolution would be adopted by consensus, as the previous text had been at the sixty-third session of the General Assembly.

12. **Mr. Khane** (Secretary of the Committee) said that the following delegations had joined the sponsors: Albania, Australia, Belgium, Bosnia and Herzegovina, Cyprus, Democratic Republic of the Congo, Ireland, Japan, Latvia, Luxembourg, Montenegro, Norway, Republic of Moldova, Romania, Serbia, Slovenia and the former Yugoslav Republic of Macedonia.

Agenda item 67: Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*)

(a) Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*) (A/C.3/64/L.53)

Draft resolution A/C.3/64/L.53: Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

13. **Mr. Lukiyantsev** (Russian Federation), introducing draft resolution A/C.3/64/L.53 on behalf of the sponsors, said that Belarus, Benin, Ethiopia, Kazakhstan, Kyrgyzstan, Nicaragua, Tajikistan and Turkmenistan had joined the sponsors. With reference to paragraph 4, he expressed the sponsors' concern at the alarming resurgence of extremist groups, in particular neo-Nazis and skinheads, who committed acts of targeted violence. Such sacrilegious acts benefited those who argued in favour of racial purity and racial discrimination, and gave a deplorable example to young people. Although the issue assumed particular importance on the sixty-fifth anniversary of the victory that marked the end of the Second World War, the sponsors of the draft resolution were not calling on the General Assembly to look to the past, but, rather, to address contemporary manifestations of racism, which must be combated at the national and international level. The Russian Federation supported the activities of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and, on behalf of the sponsors of the draft resolution, welcomed his investigation of the issues referred to in General Assembly resolution 63/162. The sponsors were convinced that the adoption of the draft resolution would make a real contribution towards the elimination of racism, racial discrimination, xenophobia and related intolerance.

14. **Mr. Khane** (Secretary of the Committee) said that Côte d'Ivoire and Nigeria had joined the sponsors.

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*) (A/C.3/64/L.54 and L.55)

Draft resolution A/C.3/64/L.54: Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

15. **Mr. Hassan** (Sudan), introducing draft resolution A/C.3/64/L.54 on behalf of the Group of 77 and China, said that the draft resolution introduced each year related to the guidance given by the General Assembly to the Human Rights Council on implementation of and follow-up to the Durban Declaration and Programme of Action. The sponsors welcomed the outcome of the Durban Review Conference and underlined the importance of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action. Acknowledging the leadership role played by the Human Rights Council with regard to implementation of the Durban Declaration and Programme of Action, the sponsors requested the Office of the United Nations High Commissioner for Human Rights to provide the Human Rights Council with the necessary resources for it to achieve its objectives in that regard. They also encouraged Member States and other relevant stakeholders to consider implementing the recommendations contained in the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. He hoped that the draft resolution would be adopted by consensus.

16. **Mr. Khane** (Secretary of the Committee) said that the Russian Federation had joined the sponsors.

Draft decision A/C.3/64/L.55: Adoption of the outcome document of the Durban Review Conference

17. **Mr. Hassan** (Sudan) introduced draft decision A/C.3/64/L.55 on behalf of the Group of 77 and China and clarified that it was a draft decision, not a draft resolution. He said that, in paragraph (b), the words "the provisions of" had been deleted and the paragraph should now read: "(b) Decides to endorse the outcome document of the Conference". He hoped that the draft decision would be adopted by consensus.

18. **Mr. Khane** (Secretary of the Committee) said that the Russian Federation had joined the sponsors.

Agenda item 68: Right of peoples to self-determination (*continued*) (A/C.3/64/L.51, L.56 and L.57)

Draft resolution A/C.3/64/L.51: Universal realization of the right of peoples to self-determination

19. **The Chairperson** said that the draft resolution had no programme budget implications.

20. **Mr. Khane** (Secretary of the Committee) recalled that Albania, Bolivia (Plurinational State of), the Comoros, Côte d'Ivoire, El Salvador, Kenya, Togo and Zimbabwe had joined the sponsors of the draft resolution when it had been introduced.

21. **Mr. Tarar** (Pakistan) said that the Central African Republic, Guinea, Liberia, the Libyan Arab Jamahiriya, Somalia and Uganda had also joined the sponsors. The right of peoples to self-determination, which occupied a central place in international law, was the cornerstone of the Charter of the United Nations and the International Covenants on Human Rights, and had been affirmed and reaffirmed by the United Nations, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference. The 2005 World Summit Outcome had also recalled the need to respect the right to self-determination of peoples under foreign occupation or colonial or foreign domination. The fact that the draft resolution had been adopted by consensus every year since the 1980s both epitomized the General Assembly's consistent reaffirmation of the fundamental principles of the Charter of the United Nations and served as a reminder that the international community did not tolerate any act of foreign occupation or domination. His delegation hoped that the draft resolution would be adopted, as usual, by consensus.

22. **Mr. Khane** (Secretary of the Committee) said that Burkina Faso, Dominica, Ghana, Grenada, Seychelles, Sierra Leone, the Sudan, Timor-Leste and Venezuela (Bolivarian Republic of) had joined the sponsors of the draft resolution.

23. *Draft resolution A/C.3/64/L.51 was adopted.*

24. **Ms. Schlyter** (Sweden) speaking in explanation of vote on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process country Montenegro; and, in addition, Iceland, Norway, the Republic of Moldova and Ukraine, said that, for the European Union, the right of peoples to self-determination was a fundamental principle of international law that remained highly relevant in the current international context and therefore deserved the closest attention of the international community. Article 1 of the Charter of the United Nations clearly illustrated the link between respect for the principle of self-determination and the strengthening of universal peace. The right to self-determination was also firmly established by the common articles of the International Covenants. Respect for the right to self-determination was closely associated with respect for all human rights, democracy and the rule of law. The European Union would have welcomed an opportunity for constructive discussion of the issue, given its importance. It considered that the main focus of the draft resolution remained too narrow, that all peoples had the right to self-determination and that that right should be exercised in accordance with international law. It would have preferred the draft resolution to reflect more clearly the need for the right to self-determination to be exercised in accordance with international law. The text also contained inaccuracies. In particular, the right to self-determination, as embodied in the International Covenants, was a right of peoples, not nations. Moreover, it was incorrect to suggest that self-determination as such was a precondition for the enjoyment of other fundamental rights. In addition, the European Union would have preferred the draft resolution to mention the right of return. A discussion between the sponsors of the draft resolution and other interested delegations would allow the text to be modified; its wording did not reflect

recent developments on the ground or the general recommendations and jurisprudence of treaty bodies. The European Union hoped that the next year's draft resolution would be a more effective instrument that would encourage all States to respect their obligations in that important area.

25. **Mr. Díaz Bartolomé** (Argentina) said that his country supported the right to self-determination of peoples still subject to colonial domination or foreign occupation, and that that right should be interpreted in accordance with the purposes and principles of the Charter of the United Nations, General Assembly resolutions 1514 (XV) and 2625 (XXV), and other relevant United Nations resolutions. In the same way, the Argentine Republic considered that draft resolution A/C.3/64/L.51 should be interpreted and implemented in accordance with the relevant resolutions of the General Assembly and the Special Committee on Decolonization, all of which highlighted the special situation of the Malvinas Islands. Resolution 2065 (XX) of 1965 and subsequent General Assembly resolutions on the question of the Malvinas Islands, as well as the resolutions on the same issue adopted by the Special Committee, expressly recognized the existence of a sovereignty dispute between the Governments of Argentina and the United Kingdom, and noted that the way to resolve that dispute was through the resumption of negotiations with a view to finding a just, peaceful and lasting solution as soon as possible, taking into account the interests of the islanders. Exercising the right to self-determination presupposed that there was an active subject in the form of a people subject to alien subjugation, domination and exploitation, as defined in paragraph 1 of resolution 1514 (XV). Without such a subject, there was no right to self-determination. The Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas were unlawfully occupied by the United Kingdom of Great Britain and Northern Ireland, which had expelled the local population and replaced it with its own population, which meant that the right to self-determination did not apply to the question of the Malvinas Islands.

26. **Mr. Sammis** (United States of America) said that his country had joined the consensus on the draft resolution because the right of peoples to self-determination was important. However, he agreed with the other delegations that had said that the text contained significant misstatements of international law and was no longer consistent with current practice.

Draft resolution A/C.3/64/L.56, The right of the Palestinian people to self-determination

27. **The Chairperson** noted that the draft resolution had no programme budget implications.

28. **Mr. Khane** (Secretary of the Committee) recalled that the following countries had joined the list of sponsors when the draft resolution had been presented: Antigua and Barbuda, Armenia, Belize, Brunei Darussalam, Burundi, Cape Verde, Central African Republic, Croatia, Democratic Republic of the Congo, Gabon, Ghana, Iceland, Italy, Jamaica, Lesotho, Liberia, Liechtenstein, Monaco, Norway, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Slovakia, Slovenia, Spain, Switzerland and Uzbekistan.

29. **Mr. Attiya** (Egypt) noted that Austria, Bulgaria, Burkina Faso, Chad, Montenegro and New Zealand had joined the list of sponsors of draft resolution A/C.3/64/L.56. Recalling that the Palestinian people had been living under Israeli occupation for more than 40 years, he said that he hoped Member States would demonstrate their solidarity and support by adopting the draft resolution by consensus, so that the Palestinian people could exercise their right to self-determination in their territory and create their own viable, sovereign and independent State, with East Jerusalem as its capital.

30. **Mr. Khane** (Secretary of the Committee) announced that Bolivia (Plurinational State of), El Salvador, Grenada, Hungary, Latvia, Lithuania, Serbia, Seychelles, Solomon Islands, Ukraine and United Kingdom of Great Britain and Northern Ireland had joined the list of sponsors of the draft resolution.

31. **Ms. Shahar** (Israel) requested that a recorded vote be taken on the draft resolution.

32. **Mr. Sammis** (United States of America), speaking in explanation of vote before the voting, said that his country — which was committed to the principle of the peaceful coexistence of two States — provided significant financial support to the Palestinian Authority, while also supporting the State of Israel. It was discouraging to see that the text of the draft resolution was unbalanced, prejudged the outcome of permanent status issues that should be resolved through

bilateral negotiations, and undermined the credibility of the United Nations.

33. **Ms. Shahar** (Israel), speaking in explanation of vote before the voting, recalled that her country had recently reiterated its desire to reach an agreement based on the peaceful coexistence of two States and, to that end, had called for the resumption of negotiations. Only bilateral negotiations would enable progress to be made towards that end, and the adoption of one-sided resolutions that exempted the Palestinian people from any obligation towards Israel did not serve the cause of peace. Therefore, Israel would be voting against the draft resolution.

34. *A recorded vote was taken on draft resolution A/C.3/64/L.56.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, United States of America.

Abstaining:

Botswana, Cameroon, Canada, Tonga, Vanuatu.

35. *The draft resolution was adopted by 171 votes to 6, with 5 abstentions.*[1]

36. **Mr. Quinlan** (Australia) said that his country supported the Palestinian people's right to self-determination and was convinced that the only way to build peace between the Israelis and the Palestinians was a two-State solution, so he urged the two sides to resume negotiations. Although Australia had been a long-time supporter of the draft resolution at hand, it had abstained from voting after 2004 because it did not agree with the advisory opinion of the International Court of Justice mentioned therein. However, it was now of the opinion that that issue alone no longer justified such a position, and had voted in favour of the draft resolution.

37. **Mr. Díaz Bartolomé** (Argentina), referring to the question of the Malvinas Islands, noted that the exercise of a people's right to self-determination in a territory presupposed the existence of a people subject to alien exploitation and occupation.

38. **Mr. Bahreini** (Islamic Republic of Iran), explaining his vote in favour of the draft resolution, reaffirmed his country's determination to defend the inalienable right of the Palestinian people to self-determination. The essential conditions to a lasting

[1] The delegations of Norway and Botswana subsequently informed the Committee that they had intended to vote in favour of the draft resolution.

peace in the region were the end of the occupation, the return of all Palestinians to their territory, and the creation of an independent State with Al-Quds Al-Sharif as its capital.

39. **Mr. Zvachula** (Federated States of Micronesia) said that his country was committed to the principle of the coexistence of two States and the right of the Palestinian people to self-determination. He nonetheless criticized several of the provisions in the preamble of the draft resolution, since they prejudged the outcome of the negotiations between the two parties, in particular the reference to the advisory opinion of the International Court of Justice. In addition, paragraph 2 of the text endangered the impartiality of the United Nations. As a result, the Federated States of Micronesia had voted against the draft resolution.

40. **Ms. Rasheed** (Observer for Palestine) thanked the around 140 States that had sponsored the draft resolution and everybody that had voted in favour of it. Such broad support would be crucial when the Palestinian people's right to self-determination, which had been brutally denied, was finally established. The statement made by the representative of Israel warranted no other response than that overwhelming vote. On the other hand, Israel's negative vote once again demonstrated that it rejected any peaceful solution based on the coexistence of two States and did not recognize the fundamental rights of the Palestinian people. However, any negotiation must begin with mutual recognition by the two parties. The right to self-determination was an inalienable right of all peoples. The Israeli refusal to recognize that right for the Palestinian people was consistent with its policy of colonizing Palestinian land and the construction of the separation wall. She wondered what would be left to negotiate if the expansion of Israeli settlements continued. She once again urged Israel to stop its illegal colonization campaigns before the resumption of negotiations.

41. She questioned the paradoxical position of the United States — extolling the peaceful coexistence of two States while continuing to vote against a resolution that affirmed the right of the Palestinian people to self-determination. The Government of the United States should review its position on the matter and consider the message being sent by the international community. On the other hand, her delegation welcomed the positive vote from Australia.

42. Only a resolution guaranteeing the rights of both peoples, including the right to self-determination and the right to have a State, would pave the way for peace in the region. The Palestinian people had been fighting for those rights for 40 years and would never give up.

Draft resolution A/C.3/64/L.57: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

43. **Ms. Pérez Álvarez** (Cuba) introduced draft resolution A/C.3/64/L.57 on behalf of its sponsors, to which the following countries had been added: Benin, Comoros, Ecuador, El Salvador, Gambia, Libyan Arab Jamahiriya, South Africa and Swaziland. Referring to paragraphs 1 to 13 of the draft resolution, she noted that the authors welcomed the efforts of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and requested that it continue its efforts to strengthen the international legal framework in order to combat the phenomenon. Specific proposals must be drawn up to fill in the gaps and address the threat represented by mercenaries and private military security services. She thanked States for their support for that important draft resolution, which the Committee would decide upon shortly.

Agenda item 69: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/64/L.22)

Draft resolution A/C.3/64/L.22: International Covenants on Human Rights

44. **The Chairperson** noted that the draft resolution did not have any programme budget implications.

45. **Mr. Khane** (Secretary of the Committee) recalled that the following countries had joined the list of sponsors when the draft resolution had been presented: Albania, Armenia, Australia, Bolivia (Plurinational State of), Canada, Cape Verde, Congo, Costa Rica, Croatia, El Salvador, Honduras, Hungary, Ireland, Italy, Malta, Montenegro, Peru, Poland, Republic of Moldova and Serbia.

46. **Ms. Fröberg** (Finland) noted that Cape Verde, Congo and Panama had decided to withdraw their names from the list of sponsors, and that the following

countries had been added to the list: Cyprus, Ecuador, Georgia, Greece, Israel, Maldives, New Zealand, Spain, Ukraine and Venezuela (Bolivarian Republic of). As a result of the informal consultations and bilateral negotiations with the delegations concerned, and in order to achieve consensus, she announced the following oral revisions to the draft resolution: in paragraph 3, the word "early" had been deleted; in paragraph 4, the words "with a view to achieving universal adherence" had been deleted at the end of the paragraph and inserted after the words "International Covenants on Human Rights" and the phrase "the Optional Protocols to them" had been replaced with "the Optional Protocols thereto"; in paragraph 5, the phrase "the Optional Protocols to them" had again been replaced with "the Optional Protocols thereto"; in paragraph 6, the phrase "and welcomes the reports submitted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism" had been deleted; in paragraph 14, the words "urges States Parties to the respective Optional Protocols to take duly into account" had been inserted before the words "the views adopted by the Human Rights Committee"; in paragraph 15, the beginning of the paragraph had been revised to read "*Takes note with appreciation*, in this regard, of measures", and at the end of the paragraph, the phrase "including the adoption by the Human Rights Committee of a set of proposals to strengthen its follow-up procedure" had been deleted; in paragraph 24, after the words "Office of the United Nations High Commissioner for Human Rights", the words "and relevant United Nations entities" had been inserted, and the words ", including translation" had been added after the words "other relevant support services".

47. The draft resolution had been submitted every year since 1967 and had always been adopted by consensus. Finland had been keen to update the text to take account of the development of the Covenants and Optional Protocols and the activities of the treaty bodies. Some delegations seemed upset that their comments on paragraphs 9 and 10 had not been taken into consideration, but it had been customary, over the past 12 years, to take note of the measures that had been taken by the committees relating to civil and political rights, and economic, social and cultural rights, and the authors of the draft resolution had considered that there was no reason to change that practice.

48. **Mr. Khane** (Secretary of the Committee) announced that the Dominican Republic had joined the list of sponsors of the draft resolution, as orally revised.

49. **Ms. Kondolo** (Zambia), speaking on behalf of the Group of African States, thanked the sponsors for having deleted from paragraph 6 of the draft resolution the reference to the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, since the African Group had clearly expressed its position on the views of that Special Rapporteur, whose work, moreover, had no connection with the draft resolution under review. However, it was regrettable that broader consultations had not been held on paragraphs 9 and 10, which stated that the General Assembly welcomed the annual reports of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, even though those reports contained General Comments which some delegations found problematic. General Comment No. 33 of the Human Rights Committee on the obligations of States parties under the Optional Protocol did not establish clearly the obligations of the States parties to only the International Covenant on Civil and Political Rights as opposed to those of States that were also parties to the Optional Protocol, which might well result in a violation of the Vienna Convention on the Law of Treaties and establish an unfortunate precedent in international law.

50. Similarly, General Comment No. 29 of the Committee on Economic, Social and Cultural Rights mentioned in paragraph 10 of the draft resolution had not been submitted to the Economic and Social Council, thereby violating the Council's resolution 1985/17. Making reference to that General Comment in the draft resolution would therefore create an unprecedented procedural problem. As for General Comment No. 19 of the Committee on Economic, Social and Cultural Rights, it did not pose a problem for the African Group, but there was no need to refer to it specifically, because, like the other General Comments, it was included in the Committee's report. As the sponsors had not taken into account those legitimate concerns, the African Group was compelled to propose oral amendments to the draft resolution.

51. The first was to delete the following passage from paragraph 9: "takes note of the General Comments adopted by the Committee, including the

most recent, General Comment No. 33 on the obligations of States parties under the Optional Protocol".

52. The second was to delete the following passage from paragraph 10: "and takes note of the General Comments adopted by the Committee, including the most recent, General Comment No. 19 on the right to social security, and General Comment No. 20 on non-discrimination in economic, social and cultural rights".

53. **Ms. Fröberg** (Finland), recalling that the draft resolution was the result of a long process of negotiation in which the sponsors had made enormous concessions, regretted that the proposed oral amendments had been presented at such a late stage and was not convinced by the arguments put forward to justify them. She requested a recorded vote on each of the amendments.

54. Explaining her vote before the voting on the first amendment, she said that the two amendments sent a strong signal of distrust regarding the independent work of both Committees. Ever since its fifty-second session, the General Assembly had been taking note of the Committees' General Comments, referring expressly to the most recent of those comments. That practice facilitated the implementation of the Covenants and the Optional Protocols thereto by drawing the attention of Member States, the United Nations system and civil society to both the latest developments observed in the field and the work of treaty bodies. Although they were not binding, those General Comments were a useful tool for ensuring that the rights contained in the Covenants were respected. Hence, not making reference to them would represent a huge step backward. Moreover, those General Comments were not incorporated into the reports of the Committees, but were only included in an annex.

55. In addition, General Comment No. 33 stated unambiguously that the second Optional Protocol was binding only on States that were already parties to the first Optional Protocol relating to the International Covenant on Civil and Political Rights. Since the General Comments were not binding, they could not create any precedent in international law. In that regard, the delegations could have lodged their reservations a few days earlier during the conference of States parties to the International Covenant on Civil and Political Rights. Finland would vote against the proposed amendment.

56. **Ms. Sunderland** (Canada), explaining her vote before the voting, regretted that amendments had been proposed even though the draft resolution had traditionally been adopted by consensus, particularly since the paragraphs that were proposed for deletion merely recaptured the language used in previous years. Treaty monitoring bodies played a vital role and the draft resolution merely noted that the General Assembly welcomed with satisfaction their annual reports and noted, in a completely neutral manner, the General Comments they had made over the previous two years. The sponsors had been very flexible throughout the negotiations, to the point of even agreeing to delete any reference to special procedures mandate holders and their reports. Regretting that a consensus could not be reached despite those efforts, she called on delegations to vote against the proposed amendment.

57. **Ms. Sapag** (Chile), aligning herself with Finland and Canada in regretting that there was no consensus, said that the proposed amendment to paragraph 9 ran counter to the spirit of the resolution and was a sign of distrust of the independent experts who made up both Committees. She called on delegations to maintain the proposed text in its entirety by voting against the proposed amendment.

58. **Ms. Freedman** (United Kingdom), aligning herself with the comments of Canada, Chile and Finland said that had the draft resolution referred to the content of the General Comments, her delegation would also have wished to take time to consider it before adopting it. However, that was not the case, since the text merely indicated that the General Assembly took note of the General Comments. By contrast, the proposed amendments passed judgment on the Committees, thereby undermining their independence. She would therefore vote against the proposed amendment and hoped that other delegations would do likewise.

59. *A recorded vote was taken on the proposed amendment to paragraph 9 of the draft resolution.*

In favour:

Algeria, Angola, Belarus, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, China, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic People's

Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Rwanda, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Togo, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montenegro, Netherlands, New Zealand, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

Abstaining:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Bhutan, Brazil, Dominica, Fiji, Grenada, Guyana, Haiti, India, Jamaica, Nepal, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Singapore, Suriname, Tajikistan, Thailand, Timor-Leste, Trinidad and Tobago.

60. *The proposed amendment to paragraph 9 was adopted by 70 votes to 69, with 25 abstentions.*

61. **Mr. Vigny** (Switzerland) said that his delegation had voted against the first proposed amendment because the Member States had to take note of the General Comments of both Committees, whether or not they appreciated the contents. Adopting that amendment compromised the independence of the bodies in question, which was unacceptable.

62. **Ms. Kondolo** (Zambia) said that the purpose of the recent conference of States parties to the International Covenant on Civil and Political Rights had not been to deal with General Comments, and the African Group had expressed reservations throughout the consultations, which had not been taken into consideration.

63. **Ms. Fröberg** (Finland), recalling her previous comments, added that General Comment No. 20, which was only adopted in May 2009, had not been annexed to the report of the Committee on Economic, Social and Cultural Rights. However, that did not hinder the General Assembly's ability to take note of it in a neutral manner in its draft resolution, and not mentioning it in the draft resolution would mean losing it altogether. She quoted the first paragraph of the introduction to the General Comment and said that the international community had to be able to take note of such a balanced text on such an important issue.

64. The proposed amendment would also delete any reference to General Comment No. 19, to which no Member State had raised any objection.

65. *A recorded vote was taken on the proposed amendment to paragraph 10 of the draft resolution.*

In favour:

Algeria, Angola, Bahrain, Bangladesh, Belarus, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, China, Comoros, Congo, Côte d'Ivoire, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Qatar, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Somalia, South Africa, Sudan, Swaziland, Syrian Arab Republic, Timor-Leste, Togo, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of).

Abstaining:

Afghanistan, Antigua and Barbuda, Bahamas, Barbados, Belize, Bhutan, Brazil, Dominica, Fiji, Grenada, Guyana, Haiti, India, Nepal, Russian Federation, Saint Vincent and the Grenadines, Samoa, Singapore, Sri Lanka, Suriname, Tajikistan, Thailand, Trinidad and Tobago.

66. *The proposed amendment to paragraph 10 was rejected by 72 votes to 71, with 23 abstentions.*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/64/L.26, L.42 and L.43)

Draft resolution A/C.3/64/L.26: Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization

67. **Mr. Sammis** (United States of America), introducing draft resolution A/C.3/64/L.26, said that the following countries had joined the sponsors: Argentina, Costa Rica, Czech Republic, Guatemala, Honduras, Indonesia, Liechtenstein, Peru, Republic of Korea, Republic of Moldova, Romania, Switzerland and United Republic of Tanzania. Free and impartial elections were the foundation of democracy, allowing for a free exchange of ideas and public debate. Providing electoral assistance was an integral part of the United Nations commitment to supporting democratic elections in Member States. National, regional and international observers helped to enhance the transparency and credibility of elections, and the provision of technical expertise could improve electoral processes. The Organization must continue to provide electoral assistance on a case-by-case basis, in accordance with the evolving needs of countries that wished to set up, improve or refine their electoral processes and institutions. The broad support for previous resolutions on the issue showed clearly that the Member States attached great importance to the role played by the Organization in that area. The Member States must continue to support the Organization's democratization efforts, particularly with regard to free and fair elections, by adopting the draft resolution.

68. **Mr. Khane** (Secretary of the Committee) announced that Benin, Bosnia and Herzegovina, Botswana, Bulgaria, Chile, Croatia, Dominican Republic, El Salvador, Estonia, Haiti, Hungary, Italy, Latvia, Luxembourg, Malawi, Mexico, Micronesia (Federated States of), Mongolia, Montenegro, Norway, Philippines, Seychelles, the former Yugoslav Republic of Macedonia and Zambia had joined the sponsors.

Draft resolution A/C.3/64/L.42: International Convention for the Protection of All Persons from Enforced Disappearance

69. **Mr. Argüello** (Argentina), introducing draft resolution A/C.3/64/L.42, said that the following countries had joined the sponsors: Andorra, Angola, Cambodia, Chad, Democratic Republic of the Congo, Gabon, Georgia, Haiti, Liechtenstein, Malawi, Mali, Malta, Mongolia, Nigeria, Panama, Uganda, Vanuatu and Venezuela (Bolivarian Republic of). It was gratifying to see that the International Convention for the Protection of All Persons from Enforced Disappearance would soon come into force. The text under review was meant not just to strengthen the process for ratifying that instrument with a view to achieving universal adherence, but also to take note of progress made in that regard. He welcomed the support the draft had received not only from States parties to the Convention, but also from States that were not yet parties to it, and the positive and constructive spirit in

which the informal consultations had been conducted. He hoped that the draft resolution, a revised version of which would be submitted as soon as possible, would be adopted by consensus.

70. **Mr. Khane** (Secretary of the Committee) announced that Bosnia and Herzegovina, Comoros, Cuba, Ghana, Niger, Saint Vincent and the Grenadines, and Swaziland had joined the sponsors.

Draft resolution A/C.3/64/L.43: Protection of human rights and fundamental freedoms while countering terrorism

71. **Mr. De León Huerta** (Mexico), introducing draft resolution A/C.3/64/L.43 on behalf of the sponsors, said that Argentina, Brazil, Japan, Monaco, Slovakia and Venezuela (Bolivarian Republic of) had joined the sponsors. Adequate measures should be taken at all levels to combat terrorism, which was a serious problem for the security of Member States of the United Nations, but the need for countries to protect their people could not justify the violation of fundamental human rights. Protecting and promoting human rights should be a major focus of all measures to combat terrorism. Since 2002, when the first draft resolution on the question was submitted to the General Assembly, Member States had managed, despite their differences of opinion and the complexity of counter-terrorism issues, to put forward a common programme and to reach consensus. His delegation commended all delegations for their commitment and cooperation during the consultations and would continue the dialogue with them.

72. **Mr. Khane** (Secretary of the Committee) announced that Albania, Argentina, Armenia, Cape Verde, Costa Rica, Croatia, Dominican Republic, El Salvador, Malta, Montenegro, Nicaragua, Panama, Romania, Serbia and the former Yugoslav Republic of Macedonia had joined the sponsors.

The meeting rose at 1 p.m.